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IN THE

Supreme Court of the United States

OCTOBER TERM, 1954.

No. 44

LATHAM CASTLE, ATTORNEY GENERAL OF THE STATE OF ILLINOIS, ET AL.,

Petitioners,

vs.

HAYES FREIGHT LINES, INC.,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

BRIEF FOR THE PETITIONERS.

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ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

BRIEF FOR THE PETITIONERS.

OPINION BELOW.

The opinion of the Supreme Court of Illinois (R. 50-62) is reported at 2 Ill. 2d, 58 and at 117 N. E. 2d 106.

JURISDICTION.

The judgment of the Supreme Court of Illinois was entered on January 20, 1954. (R. 62.) The petition for certiorari was filed April 19, 1954, and was granted June 7, 1954. Jurisdiction of the court rests upon 28 U. S. C. 2101 (f).

STATUTES INVOLVED.

The Federal Motor Carrier Act of 1935, also known as Part II of the Interstate Commerce Act (49 U. S. C., secs. 301 *et seq.*) and the Illinois Uniform Act Regulating Traffic on the Highways (Ill. Rev. Stats. 1953, ch. 95½, pars. 229 (b), (g), (i), (j), (l); Vol. 2, p. 257) printed herein as Appendix A and Appendix B, are involved.

QUESTION PRESENTED FOR REVIEW.

An Illinois statute, held constitutional in general as to both intrastate and interstate motor truckers, authorizes the suspension of the privilege to operate upon Illinois highways for habitual violations of that state's statute fixing maximum permissible weights of motor trucks traveling upon Illinois highways. May the sanction of such suspension be applied to truckers holding certificates of convenience and necessity under the Federal Motor Carrier Act?

STATEMENT OF THE CASE.

For a long period of time, Illinois has regulated the weight of motor vehicles upon its highways. In force at all times material to this litigation was Section 131 of the Uniform Act Regulating Traffic on the Highways which set maximum weights of vehicles.[1] In 1951 the Illinois General Assembly amended the Uniform Act Regulating Traffic on the Highways by enacting section 132.02 which is here directly involved.[2] The Illinois Supreme Court's opinion summarized the exigent provisions of the statute:

> "Subsection (g) provides that proof of a total of ten or more convictions for violation of section 131

1. Ill. Rev. Stats. 1953, ch. 95½, par. 228, Vol. 2, p. 256.

2. Ill. Rev. Stats. 1953, ch. 95½, par. 229b, Vol. 2, p. 257, Appendix B, pp. 25-27.

during any twelve months' period by any one operator constitutes *prima facie* evidence that the operator has habitually operated in violation of section 131. Subsection (b) further provides that 'the court shall not find that a defendant has habitually operated one or more commercial vehicles in violation of Section 131 of this Act unless and until the court shall have considered the evidence to the contrary, if any, offered by the defendant, and such evidence may include, but shall not be limited to, evidence relating to the character and gravity of such violations and the extent of the operations of commercial vehicles by or on behalf of such defendant upon the public highways of this state which did not involve any such violations.'

"Subsection (i) provides that whenever the court shall find from the evidence that an operator has habitually operated one or more commercial vehicles in violation of Section 131, it shall enter an order suspending the operator's privilege for a period of ninety days. If at any time thereafter, in another suspension proceeding, the court shall find that the operator has again habitually operated in violation of section 131, it shall enter a similar order of suspension for a period of one year. An order of suspension is enforceable by contempt proceedings (subsection (j)), and operation after suspension is a misdemeanor (subsection (l))." (R. 52-53.)[3]

Respondent, hereinafter called Hayes, instituted the action from which the proceedings in this court originated in the circuit court of Marion County, Illinois, against petitioners, Castle, as Attorney General of Illinois, and Wilson, as State's Attorney of Marion County, Illinois. Hayes, a motor carrier engaged in both intrastate and interstate commerce in Illinois, holds a certificate of public convenience and necessity under the Federal Motor

3. *Hayes Freight Lines, Inc.* v. *Castle*, 2 Ill. 2d 58, 62.

Carrier Act.[4] Under the challenged Illinois statute[5], Hayes had been charged with 157 violations of the Illinois weight statute in a proceeding to suspend its privilege of operating in Illinois. Hayes alleged that further proceedings charging 144 additional violations were threatened by petitioners. Hayes asked declaratory judgment that section 132.02[6] was unconstitutional and prayed an injunction restraining petitioners from conducting any suspension proceedings against it. The pleadings asserted violation of both state and federal Constitutions. (R. 1-12.) Petitioners concede that if section 132.02 be unconstitutional, respondent invoked a proper remedy.

On motion of petitioner, the circuit court of Marion County dismissed the complaint of respondent. (R. 13.) On appeal the Supreme Court of Illinois rejected Hayes' contentions *in toto* with one exception: the court determined the challenged suspension section when applied to carriers operating pursuant to certificates of convenience and necessity issued by the Interstate Commerce Commission was in conflict with the Federal Motor Carrier Act and to that extent invalid. (R. 58-62.) Accordingly, it reversed the decree of the circuit court of Marion County with instructions to enter a decree in accordance with the views expressed in the opinion of the court. (R. 63.)

Hayes, respondent in the instant proceedings for certiorari, appealed from the decree of the Supreme Court of Illinois in cause #706 of the October 1953 Term of this Court. That appeal was dismissed on June 7, 1954, by this Court.[7]

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4. 49 U. S. C., secs. 301, *et seq.* (Appendix A, pp. 19-24).

5. Ill. Rev. Stats. 1953, ch. 95½, par. 229b, Vol. 2, p. 257, Appendix B, p. 25.

6. *Ibid.*

7. *Hayes Freight Lines, Inc.* v. *State of Illinois*, ... U. S. ....., 74 S. Ct. 866.

SUMMARY OF ARGUMENT.

The roads of Illinois are the property of that state. The commerce clause does not authorize Congress to permit interstate truckers to operate habitually in violation of the state's regulation relating to size and weight of motor vehicles. Even if Congress has such power it has not exercised that power. Illinois clearly retains it. The fact that suspension of the privilege of operating over the highways of Illinois is a penalty for habitually overloading trucks does not violate any Federal right of a trucker certificated by the Interstate Commerce Commission.

POINTS AND AUTHORITIES.

I.

The Commerce Clause Does Not Empower Congress in Effect to Expropriate State Highways by Immunizing Interstate Carriers from Otherwise Constitutional Regulations Intended for the Preservation of the Highways Upon Which Interstate Commerce Depends.

Welch Co. v. *New Hampshire*, 306 U. S. 79, 84.

Maurer v. *Hamilton*, 309 U. S. 598, 608.

Werner Transport Co. v. *Hughes*, 19 Fed. Supp. 425.

Geer v. *Connecticut*, 161 U. S. 519.

Hudson County Water Co. v. *McCarter*, 209 U. S. 349.

Silz v. *Hesterberg*, 211 U. S. 31.

Bayside Fish Co. v. *Gentry*, 297 U. S. 422.

Henderson Bridge Company v. *Kentucky*, 166 U. S. 150.

Detroit International Bridge Co. v. *Tax Board*, 294 U. S. 83.

49 U. S. C., Secs. 301 *et seq.*

Ill. Rev. Stat. 1953, Ch. 95½, Par. 229b, Vol. 2, p. 257.

II.

Even If Congress Possesses the Power to Regulate Size and Weight of Vehicles on State Highways, It Has Not Done So. Illinois Remains With Complete Power to Regulate Size and Weight of Vehicles Upon Its Highways.

S. C. Hwy. Dept. v. Barnwell Bros., 303 U. S. 177, 187.
Maurer v. Hamilton, 309 U. S. 598, 610.
Bradley v. Pub. Util. Comm'n., 289 U. S. 92.
Buck v. Kuykendall, 267 U. S. 307, 314-315.
Bush Co. v. Maloy, 267 U. S. 317, 324.
Hendrick v. Maryland, 235 U. S. 610, 622.
Kane v. New Jersey, 242 U. S. 160, 167.
Morris v. Duby, 274 U. S. 135.
Sproles v. Binford, 286 U. S. 374.
49 U. S. C., Sec. 325.

III.

In the Absence of the Existence and Exercise of Congressional Power to Immunize Interstate Carriers from the Act in Question, It Is Valid in Its Application to Such Carriers.

Welch Co. v. New Hampshire, 306 U. S. 79, 84.
Hayes Freight Lines, Inc. v. Castle, 2 Ill. 2d 58, 62, 68-69.
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McDonald v. Thompson, 305 U. S. 263.
Title 49, U. S. C., Sec. 307(b).

ARGUMENT.

I.

The Commerce Clause Does Not Empower Congress in Effect to Expropriate State Highways by Immunizing Interstate Carriers from Otherwise Constitutional Regulations Intended for the Preservation of the Highways Upon Which Interstate Commerce Depends.

In discussing the alleged conflict between the Federal Motor Carrier Act[8] and the suspension clause of the Uniform Act Regulating Traffic On The Highways,[9] the Supreme Court of Illinois said (2 Ill. 2d 58 at p. 73):

> "In the interest of establishing a national transportation system, the Federal government has granted the plaintiff the right to engage in commerce upon the highways of Illinois. That is the very right which is to be suspended under section 132.02. * * * we do not see how an adequate national transportation system can be maintained if the comprehensive transportation network which it contemplates is to be subject to disruption by State suspension of operating rights for violation of load limits or other traffic regulations."

It is respectfully submitted that the learned court below misapprehended the power of the national Congress over the state highways. As this court has pointed out, "The roads belong to the State."[10]

This court has never held the Commerce Clause empowered the Federal government to take over without compen-

8. 49 U. S. C., secs. 301 *et seq.*

9. Ill. Rev. Stats. 1953, ch. 95½, par. 229b, Vol 2, p. 257, Appendix B, p. 25.

10. *Welch Co.* v. *New Hampshire*, 306 U. S. 79, 84.

sation property of the state. On the contrary, it has been held that state property is not subject to the restraints of the Commerce Clause.[11] Further, the building, maintaining and regulating of structures carrying vehicles is not engaging in interstate commerce nor employing property in interstate commerce.[12]

Under the Act in question the State of Illinois is empowered to suspend only an operator who has "habitually operated * * * in violation of" admittedly valid regulations as to weight of motor vehicles.[13]

The Supreme Court of Illinois found that the Act relating to suspension was valid generally; that it violated no constitutional rights guaranteed by the state or United States except as to the "rights" granted under a certificate of convenience and necessity issued by the Interstate Commerce Commission pursuant to the Federal Motor Carrier Act.

The highways of Illinois belong to the state. The net result of the holding of the Supreme Court of Illinois is that notwithstanding the destruction of its property, the state has but limited power to protect that property against the trucker who habitually overloads his vehicle. The holding implies that Congress, without compensation to the State of Illinois, may take the property of Illinois under the Commerce Clause and turn it over to those who for

11. See *Geer* v. *Connecticut*, 161 U. S. 519 (Wild Game); *Hudson County Water Co.* v. *McCarter*, 209 U. S. 349 (Water); *Silz* v. *Hesterberg*, 211 U. S. 31 (Wild Game); *Bayside Fish Co.* v. *Gentry*, 297 U. S. 422 (Fish).

12. *Henderson Bridge Company* v. *Kentucky*, 166 U. S. 150; *Detroit International Bridge Co.* v. *Tax Board*, 294 U. S. 83 (Bridges).

13. Hayes has not challenged the validity of Illinois weight regulation. The Illinois weight regulation has been upheld by a three judge court as not violating rights under the Federal Constitution, nor in conflict with Motor Carriers Act. See *Werner Transport Co.* v. *Hughes*, D. C., Illinois, 19 F. Supp. 425.

gain destroy the very avenues upon which interstate commerce could move.

This court has neither by explicit nor implicit language supported such philosophy. If federal legislation under the Commerce Clause inferentially directs the state to abrogate as to interstate carriers non-discriminatory protective measures relating to its highways, then it follows logically that under the Commerce Clause the Congress can command the states without compensation to open, to alter, or to vacate public roads. The Commerce Clause cannot be so construed.

II.

Even If Congress Possesses the Power to Regulate Size and Weight of Vehicles on State Highways, It Has Not Done So. Illinois Remains With Complete Power to Regulate Size and Weight of Vehicles Upon Its Highways.

Even if this court should assume, without determining that the Commerce Clause of the United States Constitution granted Congress power to regulate size and weight of vehicles upon state-owned highways, it is patent that Congress has not exercised such power. Until Congress exercises such power, equally obvious is the power of the state to regulate the size and weight of vehicles. As this court pointed out in *S. C. Hwy. Dept.* v. *Barnwell Bros.*, 303 U. S. 177, 187:

> "• • • Few subjects of state regulation are so peculiarly of local concern as is the use of state highways. There are few, local regulation of which is so inseparable from a substantial effect on interstate commerce. Unlike the railroads, local highways are *built, owned* and *maintained by the state or its municipal subdivisions*. The state has a primary and immediate concern in their safe and economical administration. The present regulations, or any others of

like purpose, if they are to accomplish their end, must be applied alike to interstate and intrastate traffic both moving in large volume over the highways. The fact that they affect alike shippers in interstate and intrastate commerce in large number within as well as without the state is a safeguard against their abuse.

"From the beginning it has been recognized that a state can, if it sees fit, build and maintain its own highways, canals and railroads and that in the absence of Congressional action their regulation is peculiarly within its competence, even though interstate commerce is materially affected. * * *" (Emphasis supplied.)

It is clear that a state may rightfully prescribe regulations in respect to the operation upon its highway of all motor vehicles so long as the legislation falls uniformly upon commerce, interstate and intrastate.[14]

That the Federal government appropriates money to the states for highway purposes, did not take from the states the power to regulate the use of the highways in order to promote conservation of highways and safety thereon.[15]

This court carefully delineated the constitutionally protected right to engage in interstate commerce in apposition to the state power to protect its highways in the three cases of *Buck* v. *Kuykendall*, 267 U. S. 307, 314-315; *Bush Co.* v. *Maloy*, 267 U. S. 317, 324; and *Bradley* v. *Pub. Utl. Comm'n.*, 289 U. S. 92. In the first two cases the court set aside state orders purporting to regulate motor carriers for hire. In *Buck* v. *Kuykendall*, *supra*, it was said that none has a right to make the highways his "place of business by using them as a common carrier for hire. Such use

14. *Hendrick* v. *Maryland*, 235 U. S. 610, 622 (state statute lawfully requiring registration and fee therefor of motor vehicles); *Kane* v. *New Jersey*, 242 U. S. 160, 167 (licensing of drivers).

15. *Morris* v. *Duby*, 274 U. S. 135 (Regulation by highway commission reducing maximum load held valid); see also *Sprodes* v. *Binford*, 286 U. S. 374.

is a privilege which may be granted or withheld by the State in its discretion * * *." The court further pointed out that state regulation to exclude unnecessary vehicles promotes both safety and economy and is valid even if applied to interstate commerce in the absence of legislation by which Congress "deals specifically with the subject. * * *.", and further "* * * appropriate state regulations adopted primarily to promote safety upon the highways and conservation in their use are not obnoxious to the Commerce Clause, where the indirect burden imposed upon interstate commerce is not unreasonable. * * *"

Buck and *Bush Co.* are clearly explained in *Bradley*. In the former two cases, while safety was promoted when the certificate was denied because intensification of traffic was prevented, the promotion of safety was merely an incident to the denial. The action in the former two cases was unlawful because it was to prevent competition deemed undesirable and since the transportation was interstate, the denial invaded the province of Congress. In *Bradley*, the purpose of the denial was to promote safety and the test employed was congestion on the highway. The effect *of the denial* upon interstate commerce was an incident and not unlawful.[16]

The congressional intent not to regulate size and weights of motor vehicles can be found in section 225 of the Motor Carrier Act.[17] The Commission was authorized merely to investigate and report the need for federal regulation of sizes and weights of motor vehicles.

While appearing before a Congressional Committee, the Federal Coordinator of Transportation testified—

> "* * * with respect to size and weight of vehicles * * * we do not undertake in this bill to cover that situation * * * because there is involved not only a question of fact as to what the regulation should be, *but also as to how far the Federal government has*

16. *Bradley* v. *Pub. Util. Comm'n*, 289 U. S. 92, 95.

17. 49 U. S. C., sec. 325, Appendix A, p. 24

power to interfere with the exercise of police power of the states with respect to their highways. They have the right to protect the highways against unsafe or unreasonable use, but whether or not the Federal government can come in and interfere with it, I cannot say at this time." (Emphasis supplied.)[18]

The decisions of the court as to the power of the state to protect its highways announced prior to 1935 were not changed by the passage of the Motor Carrier Act in 1935. This is clear from the *Barnwell* case.[19] In that case the truckers raised specifically the question of whether the Motor Carrier Act of 1935 superseded state regulation of size and weight of motor vehicles. The three-judge court ruled that weight regulation had not been superseded by that act. This court observed that there was no occasion for saying "the bare possession of power by Congress to regulate the interstate traffic forces the states to conform to standards which Congress might, but has not adopted, or curtails their power to take measures to insure the safety and conservation of their highways which may be applied to like traffic moving intrastate."[20]

In Maurer v. *Hamilton*, this court said: "The power of states to regulate the size and weights of loaded motor vehicles was thus left undisturbed.[21]

The United States has passed no general legislation dealing with size and weights of motor vehicles in interstate commerce, Illinois retains complete power to protect its highways from overloaded vehicles.

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18. *Maurer* v. *Hamilton*, 309 U. S. 598, 608.
19. 303 U. S. 177, 187.
20. *Ibid*, 187.
21. 309 U. S. 598, 610; cf *Ibid*., p. 609, n. 9.

III.

In the Absence of the Existence and Exercise of Congressional Power to Immunize Interstate Carriers from the Act in Question, It Is Valid in Its Application to Such Carriers.

The Federal Motor Carrier Act specifically declares a certificate under the act does not confer "any proprietary rights in the use of public highways * * *."[22]

Notwithstanding the holdings of this court and the clear expression of congressional intent as expressed in 307(b) of 49 U. S. C., respondent persuaded the learned court below that the Federal Motor Carrier Act conferred "rights" upon truckers which had not existed prior to the passage of that act. In its opinion the Supreme Court of Illinois said: "In the interest of establishing a national transportation system the Federal government has granted the plaintiff the right to engage in commerce upon the highways of Illinois."[23]

The statement of the court is based upon a misapprehension of the law. Prior to the passage of the act, the Constitution prohibited the states from regulating interstate commerce by motor carrier on the highways.[24] Congress, except in certain instances not here in point, did not regulate such commerce. Thus, it may well be said that prior to the Motor Carrier Act of 1935, all persons had the right to engage in commerce upon the highway. The result of the act was not to confer a right to engage in interstate commerce. Instead it drastically limited the right of persons to engage in interstate commerce. The act made it

22. 49 U. S. C., sec. 307 (b).

23. *Hayes Freight Lines, Inc.* v. *Castle*, 2 Ill. 2d 58, 73.

24. See *Buck* v. *Kuykendall*, 267 U. S. 307; *Bush Co.* v. *Maloy*, 267 U. S. 317.

unlawful to operate upon the highways as a common carrier in interstate commerce without a certificate from the Interstate Commerce Commission.[25]

The purpose of the act as set forth in the national transportation policy was to provide fair and impartial *regulation* of all modes of transportation.[26] This act to regulate cannot be construed as an act to grant rights.

Hayes has not attacked and (we assume) will concede that the regulation of size and weight of motor vehicles in Illinois rests in the State of Illinois. We submit that there is no authority other than the decision below that would hold that a certificate to engage in interstate commerce as a carrier of goods for hire is a certificate which entitles the holder thereof to violate the laws of the State relating to size and weight of motor vehicles.

We, therefore, reach the question of the propriety of suspending a certificated carrier of goods in interstate commerce for violation of regulation as to size and weight. The sanction of suspension here prescribed by statute does not violate the due process and equal protection clause of the United States Constitution.[27]

In the ultimate analysis the imposition of fines is no deterrent to overloading of motor vehicles. The pecuniary exaction is merely one more cost of doing business passed on to the shipper. The Supreme Court of Illinois said:

> "* * * The State's continuing search for effective enforcement techniques to secure compliance with valid weight limits is apparent in the legislation dealing with the subject. (See: Act of July 9, 1935, secs. 132, 135, 137, Laws of 1935, p. 1281 ff.; Act of August 6, 1949, secs. 1, 2, 3, Laws of 1949, p. 1142; Act of August 10,

25. See *Thompson* v. *McDonald*, 5 Cir., 95 F. 2d 937, 943 (affirmed *McDonald* v. *Thompson*, 305 U. S. 263).

26. Appendix A, p. 19.

27. *Hayes Freight Lines, Inc.* v. *Castle*, 2 Ill. 2d 58, 67, 69.

1949, secs. 132, 132.01, Laws of 1949, p. 1156; Act of August 6, 1951, sec. 132.01, Laws of 1951, p. 2090.) The General Assembly might infer that the truckers find the payment of statutory penalties when violation is established to be economically preferable to compliance. But the State is entitled to insist upon compliance with its valid regulations, and to shape its penalties to that end. Considerations stemming from the commerce clause of the Federal constitution apart, we see no reason why the State may not restrict the privilege of using its highways for profit to those who comply with its laws. If, because of the peculiarities of a particular load, compliance would present inordinate difficulties, provision is made for a permit to exceed the statutory limits. Ill. Rev. Stats. 1951, ch. 95½, par. 230."[28]

This court, by dismissing the appeal of respondent, implicitly found that the remedy of suspension does not deprive Hayes of the right of equal protection or of due process of law under the Federal Constitution.

Most nearly analogous to the present question is the case of *Welch Co.* v. *New Hampshire*, 306 U. S. 79, 84. Welch Co., a Massachusetts corporation, did approximately 1% intrastate and 99% interstate business in New Hampshire. After notice and hearing, the Public Service Commission of New Hampshire suspended registration certificates for violation of a state statute relating to the operation of motor vehicles by drivers who had been continuously on duty for more than twelve hours.

The Federal Motor Carrier Act specifically empowered the Interstate Commerce Commission to establish regulations with respect to hours of service. Violations for which Welch was suspended occurred after the effective date of the Federal act and before the Interstate Commerce Commission made its order. In affirming the judgment of the New Hampshire court which had dismissed the appeal from

28. *Ibid*, pp. 68-69.

the order of the Public Service Commission, this court said: "* * * Congress by mere grant of power to the Interstate Commerce Commission did not intend to supersede state police regulations established for the protection of the public using state highways."

This court can take judicial notice that overloaded trucks will destroy the highways of Illinois. Such trucks are a danger to the life and property of every person upon the highways. Unless and until Congress, pursuant to constitutional power, enacts legislation to the contrary, Illinois may deny the privilege of operating upon its highways those who habitually violate statutes relating to weights of motor vehicles.

CONCLUSION.

In view of the foregoing, we pray that this court will reverse the decision of the Supreme Court of Illinois and remand the cause with instructions to affirm the trial court.

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APPENDIX A.

Excerpts from Federal Motor Carrier Act (49 U. S. C., secs. 301 et seq.).

National Transportation Policy: It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions; —all to the end of developing, coordinating and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy. (Historical note preceding sec. 301, Title 49, U. S. C.)

Sec. 302. (a) The provisions of this chapter apply to the transportation of passengers or property by motor carriers engaged in interstate or foreign commerce and to the procurement of and the provision of facilities for such transportation, and the regulation of such transportation, and of the procurement thereof, and the provision of facilities therefor, is vested in the Interstate Commerce Commission.

(b) Nothing in this chapter shall be construed to affect the powers of taxation of the several States or to authorize a motor carrier to do an intrastate business on the highways of any State, or to interfere with the exclusive exercise by each State of the power of regulation of intrastate commerce by motor carriers on the highways thereof.

* * * * *

Sec. 304. (a) Powers and duties generally:

It shall be the duty of the Commission—

(1) To regulate common carriers by motor vehicle as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

(2) To regulate contract carriers by motor vehicle as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

(3) To establish for private carriers of property by motor vehicle, if need therefor is found, reasonable requirements to promote safety of operation, and to that end prescribe qualifications and maximum hours of service of employees, and standards of equipment. In the event such requirements are established, the term "motor carrier" shall be construed to include private carriers of property by motor vehicle in the administration of subsection (c) of this section and sections 305, 320, 321, 322(a), (b), (d), (f), and (g), and 324 of this title.

(4) To regulate brokers as provided in this chapter,

and to that end the Commission may establish reasonable requirements with respect to licensing, financial responsibility, accounts, records, reports, operations, and practices of any such person or persons.

(4a) To determine, upon its own motion, or upon application by a motor carrier, a State board, or any other party in interest, whether the transportation in interstate or foreign commerce performed by any motor carrier or class of motor carriers lawfully engaged in operation solely within a single State is in fact of such nature, character, or quantity as not substantially to affect or impair uniform regulation by the Commission of transportation by motor carriers engaged in interstate or foreign commerce in effectuating the national transportation policy declared in the Interstate Commerce Act. Upon so finding, the Commission shall issue a certificate of exemption to such motor carrier or class of motor carriers which, during the period such certificate shall remain effective and unrevoked, shall exempt such carrier or class of motor carriers from compliance with the provisions of this chapter, and shall attach to such certificate such reasonable terms and conditions as the public interest may require. At any time after the issuance of any such certificate of exemption, the Commission may by order revoke all or any part thereof, if it shall find that the transportation in interstate or foreign commerce performed by the carrier or class of carriers designated in such certificate shall be, or shall have become, or is reasonably likely to become, of such nature, character, or quantity as in fact substantially to affect or impair uniform regulation by the Commission of interstate or foreign transportation by motor carriers in effectuating the national transportation policy declared in the Interstate Commerce Act. Upon revocation of any such certificate, the Commission shall restore to the carrier or carriers affected thereby, without further proceedings, the authority, if any, to op-

erate in interstate or foreign commerce held by such carrier or carriers at the time the certificate of exemption pertaining to such carrier or carriers became effective. No certificate of exemption shall be denied, and no order of revocation shall be issued, under this subparagraph, except after reasonable opportunity for hearing to interested parties. Where an application is made in good faith for the exemption of a motor carrier under this subparagraph, accompanied by a certificate of a State board of the State in which the operations of such carrier are carried on stating that in the opinion of such board such carrier is entitled to a certificate of exemption under this subparagraph, such carrier shall be exempt from the provisions of this chapter beginning with the sixtieth day following the making of such application to the Commission unless prior to such time the Commission shall have by order denied such application, and such exemption shall be effective until such time as the Commission, after such sixtieth day, may by order deny such application or may by order revoke all or any part thereof as hereinbefore authorized. In any case where a motor carrier has become exempt from the provisions of this chapter as provided in this subparagraph, it shall not be considered to be a burden on interstate or foreign commerce for a State to regulate such carrier with respect to the operations covered by such exemption. Applications under this subparagraph shall be made in writing to the Commission, verified under oath, and shall be in such form and contain such information as the Commission shall by regulations require.

(5) For the purpose of carrying out the provisions pertaining to safety, the Commission may avail itself of the assistance of any of the several research agencies of the Federal Government having special knowledge of any such matter, to conduct such scientific and technical researches, investigations, and tests as may be necessary to

promote the safety of operation and equipment of motor vehicles as provided in this chapter; the Commission may transfer to such agency or agencies such funds as may be necessary and available to make this provision effective.

(6) To administer, execute, and enforce all provisions of this chapter, to make all necessary orders in connection therewith, and to prescribe rules, regulations, and procedure for such administration; and

(7) For purposes of the administration of the provisions of this chapter, to inquire into the management of the business of motor carriers and brokers, and into the management of the business of persons controlling, controlled by, or under common control with, motor carriers to the extent that the business of such persons is related to the management of the business of one or more motor carriers, and the Commission shall keep itself informed as to the manner and method in which the same are conducted, and may obtain from such carriers and persons such information as the Commission deems necessary to carry out the provisions of this chapter; and may transmit to Congress from time to time, such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary.

Sec. 306. (1) Except as otherwise provided in this section and in section 310a of this title, no common carrier by motor vehicle subject to the provisions of this chapter shall engage in any interstate or foreign operation on any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: * * *

Sec. 307. (b) No certificate issued under this chapter shall confer any proprietary or property rights in the use of the

public highways. Feb. 4, 1887, c. 104, Part II, sec. 207, as added Aug. 9, 1935, c. 498, 49 Stat. 551.

Sec. 325. The Commission is authorized to investigate and report on the need for Federal regulation of the sizes and weight of motor vehicles and combinations of motor vehicles and of the qualifications and maximum hours of service of employees of all motor carriers and private carriers of property by motor vehicle; and in such investigation the Commission shall avail itself of the assistance of all departments or bureaus of the Government and of any organization of motor carriers having special knowledge of any such matter. Feb. 4, 1887, c. 104, Part II, sec. 225, as added August 9, 1935, c. 498, 49 Stat. 566, renumbered sec. 226 by Sept. 18, 1940, c. 722, Title I, Sec. 26 (b), 54 Stat. 929.

APPENDIX B.

Excerpts from section 132.02 of Uniform Act regulating traffic on the highways (Ill. Rev. Stat., 1953, Ch. 95½, par. 229 (b), (g), (i), (j), and (l), Vol. 2, pp. 257-259).

(b) The commercial vehicle operator's privilege of any commercial vehicle operator shall be suspended as hereinafter provided, when such commercial vehicle operator shall habitually operate one or more commercial vehicles in violation of section 131 of this Act.

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(g) The provisions of an Act of the General Assembly entitled, 'An Act in Relation to Practice and Procedure in The Courts of This State,' approved June 23, 1933, and all existing and future amendments of said Act and modifications thereof, and the rules now or hereafter adopted pursuant to said Act, shall apply to all proceedings hereunder, except as herein otherwise provided or except when inconsistent with the provisions of this Act.

Proof that a total of ten or more convictions for violation of Section 131 of this Act have been entered during any twelve months period with respect to the operation of one or more commercial vehicles by any one commercial vehicle operator, whether operated individually or through agents, servants or employees of such commercial vehicle operator, shall constitute prima facie evidence that such commercial vehicle operator has habitually operated a commercial vehicle or more than one commercial vehicle in violation of Section 131 of this Act. In any proceeding brought under this section, the court shall not find that a defendant has habitually operated one or more commercial

vehicles in violation of Section 131 of this Act unless and until the court shall have considered the evidence to the contrary, if any, offered by the defendant, and such evidence may include, but shall not be limited to, evidence relating to the character and gravity of such violations and the extent of the operations of commercial vehicles by or on behalf of such defendant upon the public highways of this state which did not involve any such violations.

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(i) Whenever the court shall find from the evidence that a commercial vehicle operator has habitually operated a commercial vehicle or more than one commercial vehicle in violation of Section 131 of this Act, it shall enter an order suspending the commercial vehicle operator's privilege of such commercial vehicle operator for a period of 90 days. If at any time thereafter in another proceeding brought under this section, the court shall find from the evidence that a commercial vehicle operator has again habitually operated in violation of Section 131 of this Act, it shall enter a similar order of suspension except that the court shall suspend the commercial vehicle operator's privilege of such commercial vehicle operator for a period of one year.

(j) Whenever the court shall enter any order under the provisions of Paragraph (i) of this section, it shall have full and continuing jurisdiction after the entry of such order to enforce any of the provisions thereof by contempt proceedings.

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(l) Whenever any commercial vehicle is operated upon the public highways of this state by or on behalf of any person, firm or corporation at a time when the commercial vehicle operator's privilege of such person, firm or corporation is suspended as provided in this Act, the driver of

such vehicle shall be deemed guilty of a misdemeanor, the person, firm or corporation on whose behalf such commercial vehicle is operated shall be deemed guilty of a misdemeanor, and all agents, servants, employees or corporate officers of the person, firm or corporation on whose behalf such commercial vehicle is operated who shall have knowingly caused or permitted such commercial vehicle to be operated shall be deemed guilty of a misdemeanor, and any one or more or all of such persons, firms and corporations may be prosecuted for such violation. Any individual person convicted of such violation shall be punished by imprisonment for not less than 10 days nor more than 90 days and in the discretion of the court, a fine of not more than $500.00. Any corporation convicted of such a violation shall be punished by a fine of not less than $1000.00 nor more than $5000.00.

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